



CITY OF SIMI VALLEY

DEPARTMENT OF PUBLIC WORKS ENVIRONMENTAL COMPLIANCE DIVISION

ENFORCEMENT RESPONSE PLAN

February 2011

Reviewed and Approved by
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City of Simi Valley
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ENVIRONMENTAL COMPLIANCE DIVISION**

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SECTION 1

The City of Simi Valley's Sewer Use Ordinance, contained in the City's Municipal Code, Chapter 6, Section 13, sets forth uniform requirements for direct and indirect use of the wastewater collection and treatment system of the City to comply with all applicable Federal and State standards required by the Clean Water Act of 1977, and all related and applicable Federal, State, or local regulations.

IDENTIFICATION OF APPROPRIATE PERSONNEL

City Manager	The City Manager will make the final decision at the City level on any contested enforcement action when required.
City Attorney	The City Attorney will review any action that may lead to Criminal Prosecution and/or Civil Penalties. The City Attorney may seek Injunctive Relief from a User.
Director of Public Works	The Director may issue warnings, Initial Notice of Violation, Notice of Violation, and Cease and Desist Orders. The Director may enter into a Consent Agreement, issue a Compliance Order, Compliance Schedule, order a Show Cause Hearing, issue an Emergency Suspension Order, or terminate the discharge of a User. The Director may assess Administrative Liabilities
Deputy Director/Environmental Compliance	The Deputy Director may perform inspections, issue warnings, Initial Notice of Violation, Notice of Violation, and Cease and Desist Orders. The Deputy Director may enter into a Consent Agreement, issue a Compliance Order, Compliance Schedule, order a Show Cause Hearing, or issue an Emergency Suspension Order.
Environmental Compliance Program Coordinator	The Coordinator may perform inspections, issue warnings, Initial Notice of Violation, Notice of Violation, and Cease and Desist Orders.
Environmental Compliance Inspectors	Inspectors perform inspections, follow-up inspections, sampling, follow-up sampling, and monitoring of facilities. Issues warnings, Initial Notice of Violation (INOV), Notice of Violation (NOV), and Cease and Desist Orders.

SECTION 2

COMPLIANCE MONITORING PROCEDURES

The Environmental Compliance Division collects routine monitoring data through the following mechanisms:

Inspection Program

Inspections may be conducted by Environmental Compliance Inspectors or Program Coordinators. Other City staff authorized to conduct inspections may include the Deputy Director/Environmental Compliance, City Engineers, Assistant Director of Public Works, or the Director of Public Works. In addition, the Division may contract with consulting services for the purpose of evaluating the Users' processes, discharges or compliance efforts. In such cases, the consultant shall be deemed an authorized representative of the City of Simi Valley. Inspections shall be conducted in accordance with the procedure defined in the City of Simi Valley's Environmental Compliance Manual under separate cover.

1. Minimum of two inspections per year for Significant Industrial Users (SIUs).
2. Annual inspection for all Class II and Class III Users.
3. At least one inspection every three (3) years for all Class II Minimal Monitoring Users.
4. At least one inspection every five (5) years for all Class III Minimal Monitoring Users.
5. Increased surveillance/inspections for Users in violation, as needed.

Sampling Program

Collection of routine samples is conducted by Environmental Compliance Inspectors for monitoring Users. Environmental Compliance Inspectors will do on-site visual testing for fats, oil, and grease limits in grease traps/interceptors. All sample analysis not done by the Inspector or the Publicly Owned Treatment Work's (POTW) laboratory will be sent to a contracted laboratory for analysis. All annual, routine, and emergency sampling will be coordinated by the Environmental Compliance Inspector assigned to the User, whenever possible. All samples, except those done in the field, must be recorded on a Chain of Custody Record following approved procedures to guarantee the integrity of the sample. Samples are recorded in the Lab Sample Log Book. All sample results are recorded on a City Sample Analysis form.

1. Minimum of two full screenings of each SIU per year. Compliance with Federal Categorical Standards shall be determined through the use of composite sampling methods, except where deemed infeasible and with the methods described in 40 CFR 136 for sampling and preservation methods.
2. Random annual sampling will be done for all Class II and Class III Users. Grab samples shall be used to determine compliance with Local Limits.
3. Follow-up sampling shall be completed within thirty (30) days of each violation. When a visual inspection for fats, oil, and grease has been done, violations will be re-sampled seven (7) days after violation.

Industrial User Self Monitoring and Compliance Report Data

This requirement has been suspended indefinitely for SIUs. Should the Deputy Director/Environmental Compliance, or designee, determine its necessity for any or all SIUs, the Self Monitoring requirement will be reinstated.

Regulatory Referral Mechanisms

Referral mechanisms have been established with the County agencies of the Fire Prevention District, Air Pollution Control District, and Environmental Health Department that conduct inspections within the City's jurisdiction. Internal referrals to other City divisions include Building and Safety, Planning, and Code Enforcement Divisions. Additional referrals from these agencies, follow-up inspections, and sampling are conducted by Environmental Compliance Inspectors.

SECTION 3

COMPLIANCE MONITORING DATA SCREENING PROCEDURES

Inspection Reports

Inspection Reports are completed by the Environmental Compliance Inspectors in the field. The Inspection Report is a permanent record of the meeting between Environmental Compliance staff and the business representative. All relevant information should be documented on the Report, for example, location of grease trap/interceptor, cleaning schedules, BMPs discussed, etc. Inspectors use the report for routine inspections, as well as to issue warnings, violation notices, requirements, and follow-up inspection dates. The original copy is left with the business, the canary copy is given to the Environmental Compliance Program Coordinator/Stormwater for review, the pink copy is used for data entry into the Environmental Compliance Database, then reviewed by the Environmental Compliance Program Coordinator/Pretreatment, and filed in the business's file.

Sampling Data

The Environmental Compliance Inspector will take samples from all Class I, Class II, and Class III businesses as required by their permits. Inspectors can perform a visual Fats, Oil, and Grease inspection for those facilities that have a grease trap/interceptor. When a visual inspection is done the results will be written on the Inspection Report and the original copy left with the business. A City Analysis form will be completed and, after review, filed in the facility file. A compliance letter is not mailed to the business when a visual inspection is done.

Samples taken for laboratory analysis will be recorded on a Chain of Custody Record following approved procedures to maintain the integrity of the sample. Samples are recorded in the Lab Sample Log Book. All sample results are recorded on a City Sample Analysis form. When the analytical results have been received from the lab an Environmental Compliance Enforcement/Compliance Tracking Form will be completed, the results entered into the Environmental Compliance Database, reviewed, and given to the Secretary to process a Compliance/Noncompliance letter. The tracking form, letter, and Analysis form are routed through the appropriate staff for review. After proper signatures have been obtained, the letter is mailed to the facility and a copy of the letter, along with tracking form and analysis is filed in the facility file.

Baseline Monitoring Reports/Environmental Compliance Discharge Permit Applications

Baseline Monitoring Reports and Environmental Compliance Discharge Permit applications are requested during the Plancheck process. If further information is required the contact person will be called or, if no phone number is available, a written request for information will be mailed. Applications must be completed and fees paid sixty (60) days in advance of discharging to the sewer or the expiration date of the existing permit.

Periodic Compliance Reports (Self-Monitoring)

Self-Monitoring reports are submitted directly to the Environmental Compliance Program Coordinator for review. The reports are reviewed within fifteen (15) working days following receipt.

Annual Zero Discharger Certification

All facilities that have been designated a zero-discharge facility must submit an Annual Zero Discharger Certification each year. This certification is due 60 days prior to the permit expiration date, or in the case of a multi-year permit no later than 60 days prior to the permit anniversary date.

Permit Conditions and Compliance Schedules

Compliance Schedules issued by the City require follow up compliance reporting by the User. These reports are required within 14 days of the milestone due dates in the schedule and are reviewed by the Environmental Compliance Program Coordinator. Independent of the User Milestone reporting, follow-up reports are generated through the Environmental Compliance Database showing follow-up due dates. The reports are available anytime through the Environmental Compliance Database.

SECTION 4

ENFORCEMENT RESPONSE MECHANISMS

Under normal circumstances, the enforcement response will follow the following sequence of enforcement procedures. However, in the case of Significant Noncompliance, or unusual circumstances, the enforcement action may be escalated to the appropriate level, by-passing interim enforcement actions.

Compliance Letters

If the sample taken was sent to either the POTW's lab or to an outside lab, a Compliance Letter is mailed to the User following the annual inspection and sampling to notify them whether or not the facility was compliant. In the case of a visual grease trap/interceptor inspection, the inspection report with the results of the visual inspection will be left with the business, no Compliance Letter will be mailed.

Initial Notice of Violation (INOV)/Warning Notice

The INOV is an initial tool to be issued by Environmental Compliance Inspectors when inspection, screening, or sampling indicates a minor or borderline violation is present. Minor is defined as a sample result that is less than 5% above the City's local limit. An INOV may also be issued for first time violations, pretreatment maintenance, delinquent reports or other administrative violations. The notice is issued either immediately at the site during an inspection using an Inspection Report form or by sending, by certified mail, a written INOV within five (5) working days of City staff's first awareness of the violation. Due to laboratory turn around times for some analytical results, this period may be up to six (6) weeks.

In the case of a visual Fats, Oil, and Grease sample the INOV is issued at the time the visual sample is done. The User is notified to correct the situation immediately and advised another visual Fats, Oil, and Grease inspection will be done in seven (7) days.

The User is allowed to review processes and make corrections prior to a follow-up inspection or sampling by the City on a time schedule to be determined on an individual basis, but in no case to exceed thirty (30) days from the issue date of the INOV. The notice shall give the User the option to split the sample for outside laboratory verification of the violation. If the User requests a split sample be taken the sample will be collected from the waste stream immediately. If a split sample is taken it will be the sample that is used to determine whether the business is compliant or in violation. More severe or repeated violations will immediately escalate enforcement to a Notice of Violation or other action suitable to the situation as discussed below.

INOVs carry no penalty assessments in themselves; however, the Notice may contain reference to penalties that may be assessed if compliance is not reached within the required time frame.

Notice of Violation (NOV)

If the User fails to come into compliance within the time frame established by the Initial Notice of Violation, a Notice of Violation is issued by the Environmental Compliance Inspector, Program Coordinator, or other City representative. A NOV may also be issued directly for

more serious violations or when the User's compliance history is marginal (repeated violations of any magnitude). The NOV may include a demand for payment for outside laboratory costs (if any), sampling costs, inspection costs, any other City costs associated with the violation, fines and/or any administrative liabilities accumulated from the due date established in the INOV. Where no prior INOV was issued, a date for permanent correction of the violation will be established. The NOV shall also require immediate action to correct the violation on an interim basis until permanent measures can be instituted by the User.

The NOV is to be hand carried or sent by certified mail to the User within five (5) days of receiving verification of the continuation of the violation(s). The Environmental Compliance Inspector will conduct re-sampling within thirty (30) days.

The monthly average for Significant Industrial Users will be taken according to the standards set forth in 40 CFR 403 to determine compliance.

In the case of a visual Fats, Oil & Grease sample the NOV is issued at the time the visual sample is done. The User is notified to correct the situation immediately and advised the facility will be re-sampled in seven (7) days. If the second sampling event results in another violation, a penalty, in an amount set by the City, will be assessed upon the User for the second violation and any subsequent violations until the facility is brought into compliance.

If the second sample reveals non-compliance, or the noncompliant situation is not corrected, the Director may proceed with one of the following actions:

- Issue a Compliance Schedule
- Enter into a Consent Agreement
- Issue an Compliance Order
- Issue a Cease and Desist Order
- Commence any enforcement action authorized by Simi Valley Municipal Code Title 6, Chapter 13

Compliance Schedule

A Compliance Schedule may be issued when it is determined that the User must install new or modified pretreatment equipment or when a User is required to develop a waste management plan, Slug Discharge Control Plan, solvent management plan, or other related plans. Direct authority to issue Compliance Schedules is incorporated into Simi Valley Municipal Code Title 6, Chapter 13, Section 6-13.904.

Consent Agreement

When a violation has not been corrected within the designated time frame, or the User's compliance history demonstrates difficulty in maintaining compliance, the User may be issued a Consent Agreement to assure voluntary compliance with the requirements issued to correct the non-compliance. Such orders shall include specific actions to be taken by the User to correct the non-compliance within a time period also specified in the Agreement. The Deputy Director/Environmental Compliance will be authorized to enter into a Consent Agreement with the User to correct the non-compliance. Direct authority to issue Consent Agreements is incorporated into Simi Valley Municipal Code Title 6, Chapter 13, Section 6-13.905.

Compliance Order

When a business has violated or continues to violate the Simi Valley Municipal Code Title 6, Chapter 13, Section 6, discharge permit, Compliance Schedule or Consent Agreement, the City may issue an order to the business responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and are properly operated. Orders may also contain other requirements that are reasonably necessary and appropriate to address the non-compliance, including but not limited to, the installation of pretreatment technology, additional self-monitoring, and management practices. A Compliance Schedule may be a component of the Compliance Order to ensure compliance is met in a timely manner. The Director of Public Works or Deputy Director/Environmental Compliance may issue the Compliance Order.

This order may include a demand to collect fines and/or other costs associated with the increased enforcement activity and/or additional maintenance or replacement costs for damage to the treatment facilities or collection systems. This option may be exercised in conjunction with other actions at this level. Fines, as set by the City, will be assessed as well as the actual costs of treatment, maintenance, repair, or enforcement actions and will be billed to the User. All Fines and Fees must be paid within thirty (30) calendar days of receiving notice to do so. Direct authority to issue Compliance Orders is incorporated into Simi Valley Municipal Code Title 6, Chapter 13, Section 6-13.906.

Cease and Desist Notice

A Cease and Desist Notice may be issued to any business found in Significant Non-compliance as defined in Simi Valley Municipal Code Title 6, Chapter 13, Section 6-13.403 in addition, any business who does not have a permit to discharge and is found discharging or is determined to have the potential, either alone or in conjunction with other discharges, to cause upset, interference, or pass-through at the POTW, cause any damage or blockage whatsoever to the City's sewerage system, adversely impact City employee health and safety, discharges hazardous wastes, or has not demonstrated good faith efforts to comply, will be immediately required to cease discharging the wastestream in violation until such time as compliance with the Simi Valley Municipal Code Title 6, Chapter 13, Section 6 or permit conditions can be demonstrated by the User.

A Cease and Desist Notice may be issued by an Environmental Compliance Inspector, Environmental Compliance Program Coordinator, or Deputy Director/Environmental Compliance. The Inspection Report form will be used to write the Cease and Desist Notice with the original copy being given to the responsible party at the business. Direct authority to issue Cease and Desist Notices is incorporated into Simi Valley Municipal Code Title 6, Chapter 13, Section 6-13.907.

Emergency Suspension

An Emergency Suspension may be issued when necessary in order to stop any discharge that reasonably appears to present an imminent hazard to the public health, safety or welfare, to the local environment, or which either individually or by interaction with other discharges, is an imminent hazard to the City's sewerage facilities, the storm drain system, or the Waters of the State, or places the City in violation of its NPDES Permit. If the User does not comply voluntarily with the Emergency Suspension, the City may take reasonably necessary steps to ensure compliance. These include, but are not limited to, immediate blockage or disconnection of the User's connection to the public sewer. Direct authority to issue suspensions is incorporated into Simi Valley Municipal Code Title 6, Chapter 13, Section 6-13.909.

Termination of Discharge

A User may have its privilege to discharge into the City's sewerage system terminated when it becomes necessary to stop any discharge that presents an imminent hazard to the public health, safety or welfare, to the local environment, or which either individually or by interaction with other discharges, is an imminent hazard to the City's sewerage facilities, the storm drain system, the Waters of the State, or places the City in violation of its NPDES Permit.

Any User whose discharge privileges have been revoked shall immediately cease and desist all discharge of any wastewater. The City may disconnect or permanently block the User's connection if such action is necessary to ensure compliance with the order of revocation. Direct authority to issue revocations is incorporated into Simi Valley Municipal Code Title 6, Chapter 13, Section 6-13.910.

Civil Penalties

In addition to the provisions for Emergency Suspension and Termination of Discharge, the Director of Public Works is authorized to begin civil actions for appropriate relief, including civil liabilities, injunctive relief, or administrative proceedings against any Users for any violation of Simi Valley Municipal Code Title 6, Chapter 13, Section 6.

Any civil action brought by the Director for enforcement of the provisions of Simi Valley Municipal Code Title 6, Chapter 13 shall, upon a finding by the court of liability, subject the violator to a maximum civil liability of one thousand dollars (\$1,000) per violation, per day. In determining the amount of Civil Penalty, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User.

Direct authority to seek civil actions against a User is incorporated into Simi Valley Municipal Code Title 6, Chapter 13, Section 6-13.913.

Criminal Prosecution

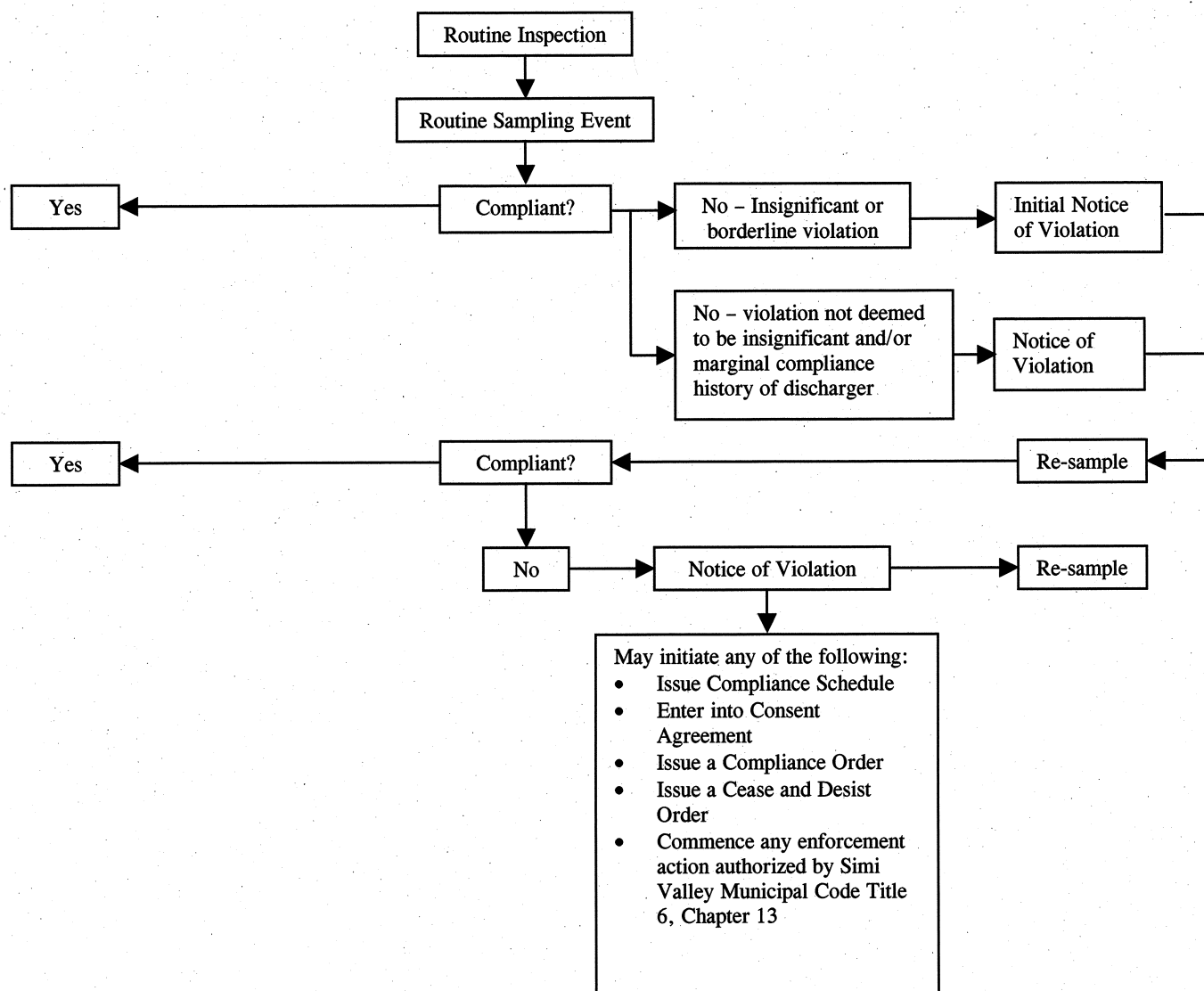
A User who violates any of the provisions of Simi Valley Municipal Code Title 6, Chapter 13 shall be guilty of a misdemeanor or an infraction.

A User who introduces any substance into the POTW, which causes personal injury or property damage, shall, upon conviction, be guilty of a misdemeanor. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

A User who makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Chapter, Permit, agreement, or order issued hereunder, or who falsifies, tampers with, or renders inaccurate any monitoring device or method required under this Chapter shall be guilty of a misdemeanor.

Direct authority to seek criminal actions against a User is incorporated into Simi Valley Municipal Code Title 6, Chapter 13, Section 6-13.914.

ENFORCEMENT FLOW CHART



VISUAL FATS, OIL AND GREASE INSPECTION FLOW CHART

